(2001) 07 MAD CK 0063

In the Madras High Court

Case No : Writ Petition No. 10103 of 1994

V. Sivashamugham APPELLANT

Vs

The Regional Transport NagaiQuithe-Milleth District at Nagapatinam and Others RESPONDENT

Date of Decision : 23-07-2001

Acts Referred:
Constitution of India, 1950 — Article 14
Tamil Nadu Motor Vehicles Taxation Act, 1974 — Section 20

Citation : (2002) 2 LW 403

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : V. Subrahmanyan, for the Appellant; E. Raja, Special Government Pleader, for the Respondent

Judgement

1. Aggrieved by the demand of motor vehicle tax and surcharge to the tune of Rs.4,45,770 towards stage carriage permit for the mini bus TDO 8688, now replaced as TN 51/270374 on the route Senbagaranallur to Vellapallam (Via) Kathiripulam and Nagakudaiyan by proceedings dated , the petitioner seeks the issue of a writ of certiorarified mandamus to call for the records relating to the order of the first respondent in R.No. 12535/A2/93, dated 24.2,1994, to quash the same and also to direct the first respondent to refund the enhanced tax collected from the petitioner for the period 1.10.1991 to till date.

2. According to the petitioner, the Government, by G.O.MS.No.1967 Home (Transport VII) Department dated 6.8.1979 as amended by a Government letter dated 7.8.1979 and by G.O.Ms.No.296, Home (Transport 11) Department dated 15.2.1983, have granted concessional rate of motor vehicle tax to the mini stage carriages in general, and therefore, the petitioner is not liable to pay a sum of Rs.4,45,770 towards the alleged motor vehicle tax, as demanded under the show-cause notice dated 24.6.1992 and the consequential demand notice dated 24.6.1994, which is impugned in the above writ petition, Hence, the above writ petition.

3. Dr. V. Subrahmanyan, learned counsel appearing for the petitioner, placing reliance on Section 20 of the Tamil Nadu Motor Vehicle Taxation Act, (hereinafter referred to as the Act, contends that the Government had already granted exemptions of payment of motor vehicle tax and permitted the mini bus stage carriages to pay only the concessional rate of tax as per the Government Orders, referred to above, and therefore, the impugned demand of motor vehicle tax is arbitrary, unreasonable and illegal.

4. Dr . V . Subrahmanyan , learned counsel appearing for the petitioner, also invited my attention to the representation of the petitioner dated 15.3.1994, seeking the grant of concessional rate of tax and surcharge with regard to the petitioner''s mini bus bearing Registration No. TDO 8688, now replaced by TN 51/ Z/0374.

5. Per contra, Mr. E. Raja, learned special Government Pleader, contends that the impugned ground is not governed by any provision u/s 20 of the Act, and therefore, the petitioner is not entitled for any concessional rate of motor vehicle tax, as claimed by him.

6. I have given a careful consideration to the submissions of both sides.

7. It is not in dispute that the object of introducing mini bus operation is to provide transport facilities in the rural areas, which do not have transportation facilities, as the operation of regular stage carriage buses are not feasible to suit the conditions of these roads and traffic potential. Appreciating the need to provide mini bus transportation facility in the rural areas for the purpose that it may help the rural agriculturists to transport their commodities to their nearest town and to purchase essential commodities from the town, the Government, by a policy decision, decided to permit the mini bus operations, giving certain exemptions in the rate of motor vehicle tax payable by such mini bus operators, by exercising the power u/s 20 of the Act, which reads as follows:

20. Exemptions.- The Government may, by notification and subject to such conditions, if any, as the Government may specify in such notification, -

(1) make an exemption, reduction in rate or other modification in regard to the tax payable -

(a) by any person or class of persons, or

(b) in respect of any motor vehicle or class of motor vehicles or motor vehicles running in any particular area; and

(2) cancel or vary such exemption, reduction or other modification.

A notification with respect to matters specified in clause (1) may be issued so as to have retrospective effect from a date not earlier than the 1st April, 1974 .

8. Section 20 of the Act empowers the Government, by a notification, to make an exemption, reduction in rate or other modification in regard to the tax payable by

any person or class of persons or in respect of any motor vehicle or class of motor vehicle or motor vehicles running in any particular area. Such exemptions of rate of tax or other modification could be granted to:

(i) any motor vehicle; or

(ii) class of motor vehicles; or

(iii) motor vehicles running in any particular area.

Therefore, in my considered opinion, no individual exemption orders are necessary in the case of individual mini bus routes. Once the Government had taken a policy decision to introduce mini bus operations, considering the welfare of the rural agriculturists who do not have the benefit of regular stage carriage buses either on account of the conditions of road or due to the traffic potential in the rural areas and have decided to implement the same, such policy decision in all the rural areas, all mini bus operators are treated as a same class of persons or class of motor vehicles, operated as mini stage carriages, are classified as motor vehicles running in a rural area.

9. The fact that the petitioner''s vehicle was operated as a mini bus in the route Senbagaranallur to Vellapallam (via) Kathiripuiam and Nagakudaiyan, where regular stage carriage is not operated, is not disputed; and in which event, if the Government had given any concession for reduction of tax payable by the mini bus operators by exercising the powers conferred u/s 20 of the Act, such concessional rate should be given to the petitioner also as he comes under the same class of persons and the denial of such benefit of concessional rate at the instance of the whims and fancies of the authorities, discriminating one mini bus operator from other where both intend to serve the rural public, would, in my considered opinion, offend Article 14 of the Constitution of India,

10. The representation of the petitioner seeking benefit of G.O.Ms. No. 1967 Home (Transport VIII) Department dated 6.8.1979, as amended by a Government letter dated 7.8.1979, G.O.Ms. No. 296, Home (Transport II) Department dated 15.2.1983 and the representation of the petitioner dated 15.3.1994 against the impugned notice dated 24.2.1994, requesting to give the benefit of concessional rate to the petitioner is admittedly pending before the Government for the past several years, as averred in paragraph 5 of the counter affidavit, which reads as follows:

"5.''It is submitted that in response to the above show-cause notice, he made representations to the Secretary to Government, Home Department, Madras, for the grant of necessary exemption to his mini bus to ply with concessional rate of tax at Rs.50 (Tax Rs.40 + Surcharge Rs 10) applicable for mini bus. In this connection, no reply was received from the Government regarding grant of concessional rate till date.

11, Therefore, it is suffice to direct the Government to pass appropriate orders on the said representation within three months from the date of receipt of a copy of this order in the light of the above orders of this Court. Till then, the impugned notice shall be kept in abeyance.

The writ petition is disposed of accordingly. Consequently, W.M.P.Nos.15217 of 1994 and 9177 of 1997 are closed.